

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on March 12, 2001 at 9:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **SB 467 - 3-09-01**
SB 426 - 3-09-01

HEARING ON SB 467

Sponsor: Sen. Duane Grimes, SD 20, Clancy said this Bill deals with remedies available to railroad workers. The first section of the Bill states this is a very old statute that has been on the books for many years. Because of a Supreme Court case, as a result of an individual who was injured and then went through the collective bargaining process and then filed in court, applying this statute for the first time.

If someone is discharged wrongfully, then they will be subject normally to the Wrongful Discharge Act or their collective bargaining agreement. If they are injured they already have remedies under the Federal Employers' Liability Act. The issue is do they have remedies or do they not through their collective bargaining agreement? The case in question is not effected by this legislation.

The question before the committee is whether the collective bargaining agreement is sufficient. The argument is that nobody has challenged that aspect in 75 years. If it hasn't been challenged and there were problems with employers acting mischievously against employees as they get close to retirement age, why hasn't there been an action on the part of the labor unions?

Proponents: Leo Berry, Attorney, Representing Burlington Northern Santa Fe Railroad and Montana Western Railway Co.

EXHIBIT (juh56a01)

{Tape : 1; Side : A; Approx. Time Counter : 0 - 19.8}

Triel Culver, Attorney, Montana Rail Link,

EXHIBIT (juh56a02)

{Tape : 1; Side : A; Approx. Time Counter : 19.9 - 30.2}

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 1.9}

Bill Fogarty, General Manager, Port of Montana,

EXHIBIT (juh56a03)

Russ Ritter, Montana Resources, Butte and Montana
Rail Link

Angela Janacaro, Montana Mining Association,
Townsend.

Pat Keim, Director, State Government Affairs,
Burlington Northern Santa Fe Railroad, **EXHIBIT**(juh56a04)

{Tape : 1; Side : B; Approx. Time Counter : 1.9 - 12.2}

Opponents: Rep. Sylvia Bookout-Reinicke, HD 71, Alberton

Gordon Hendricks, Retired Railroad Worker, Mayor of
Superior.

Bob McComb, Retired Railroad Worker, Alberton

Brotherhood of Signalmen Association

Maintenance Way Association

Rep. Jim Keane, HD 36, Butte **EXHIBIT**(juh56a05)
EXHIBIT(juh56a06) **EXHIBIT**(juh56a07)

Rep. Dave Gallik, HD 52, Helena

Eric Thueson, Attorney, Helena **EXHIBIT**(juh56a08)

{Tape : 1; Side : B; Approx. Time Counter : 12.2 - 27.2}

Fran Marceau, State Director, United Transportation
Union, Kalispell

{Tape : 1; Side : B; Approx. Time Counter : 27.2 - 29.5}

Steve Boysun, Glendive, IBEW

{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 6.9}

Jim Shea, Attorney, Missoula

{Tape : 2; Side : A; Approx. Time Counter : 6.9 - 12.5}

Gary Winslow, Clancy

Al Smith, Montana Trial Lawyers Association, Helena

Keith Allen, IBEW, Helena

Wayne Young, BMWD, Wolf Creek

Darrell Holzer, AFL-CIO, Helena

{Tape : 2; Side : A; Approx. Time Counter : 12.5 - 20.9}

Questions from Committee Members and Responses: Reps. Gallus, Younkin, Rice, Peterson, Clark to Mr. Marceau, Mr. Thuesin and Mr. Winslow for clarification.

{Tape : 2; Side : A; Approx. Time Counter : 20.9 - 30.7}

Reps. Clark, Laszloffy, Gutsche, Younkin, Mangan to Mr. Winslow, Mr. Thuesin, Mr. Smith, Sen. Grimes and Mr. Marceau for further clarification.

{Tape : 2; Side : B; Approx. Time Counter : 0.1 - 29.9}

Reps. Mangan, Adams, Holden, Peterson, Curtiss, Gallus, Shockley to Mr. Marceau, Mr. Winslow, Mr. Berry, Sen. Grimes, Mr. Keim, Mr. Thuesin.

{Tape : 3; Side : A; Approx. Time Counter : 0.1 - 18.5}

Closing by Sponsor: Senator Grimes closed the Hearing on SB 467 by saying every discharge will be challenged under the standards of negligence, mismanagement and conduct. So as a direct result of that, it is going to throw this back into some kind of collective bargaining fight and the whole issue calls into question the veracity of all agreements that are made in a collective bargaining contract. This creates a new remedy and the way it has been amended, can be bargained for.

HEARING ON SB 426

Sponsor: Senator Mike Halligan, SD 34, Missoula said this Bill would allow for people out on bond and some conditions by a judge. Missoula is the only city that has a pre-trial service agency as its name. Other communities have pre-release centers. There is an agency that monitors the probationers or the individuals who are allowed out by a peer in front of a justice on conditions. This is a pre-trial service agency that actually monitors people prior to their trial. This allows the same arrest powers as probation and parole. **EXHIBIT**(juh56a09)

Proponents: Sue Wilkens, Executive Director, Missoula Correctional Services, Missoula.

{Tape : 3; Side : A; Approx. Time Counter : 18.3 - 29.9}

Ray Reiser, Pre-Trial Supervision Program, Missoula
Correctional Service. **EXHIBIT**(juh56a10)

{Tape : 3; Side : B; Approx. Time Counter : 0.1 - 6.6}

Opponents: None

Questions from Committee Members and Responses: Reps. Laszloffy,
Clancy, Hurdle, Mangan, Harris, Clark, Peterson to Senator
Halligan, Ms. Wilkens, Mr. Reiser for clarification.

Closing by Sponsor: Senator Halligan closed the Hearing on SB
426.

{Tape : 3; Side : B; Approx. Time Counter : 6.6 - 29.8}

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 0.6}

ADJOURNMENT

Adjournment: 12:10 A.M.

REP. JIM SHOCKLEY, Chairman

MARY LOU SCHMITZ, Secretary

JS/MS

EXHIBIT (juh56aad)